**HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**WRIT PETITION No. 26083 of 2007**

**24.12.2007**

-

-

Between:

Gousia Sultana & another

... Petitioners

AND

The Collector, R.R. District,
& another.

... Respondents

Counsel for the petitioners : Sri Suresh Shiva Sagar

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

**O R D E R:**

This writ petition is filed for a writ of mandamus to declare the action of the respondents in acquiring the agricultural land admeasuring Ac.0.30 guntas situated in Survey No. 5 of Jalpally Village, Saroornagar Mandal, R.R. District and demolishing the structures therein without following due process of law, as illegal and arbitrary.

The case of the petitioners is that they purchased the above-said land under registered sale deed dated 31.05.2002 from the original owner Sri G. Balaiah, S/o Jangaiah. It is further stated in the affidavit that pattedar passbook and title deeds were issued in the name of said Balaiah and that after the purchase of the property, the name of petitioner No.1 was mutated in the Record of Rights vide proceedings dated 03.11.2006. The grievance of the petitioners is that

though they have been running an industry of manufacturing cardboard on the site and they are in lawful possession of the property, the respondents are seeking to demolish the entire structure without issuing notice and without acquiring the land.

In the counter-affidavit filed by the Special Deputy Collector (Land Acquisition), International Air Port, Shamshabad (respondent No.2), it has been stated that the property in dispute was assigned in favour of Sri G. Jangaiah and that even if any alienation is made by the assignee in favour of the petitioners, the same is hit by the provisions of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the 1977 Act').

Heard Sri Suresh Shiv Sagar, learned counsel for the petitioners and Learned Assistant Government Pleader for Land Acquisition.

Learned counsel for the petitioners stated that the property was purchased under registered sale deed and the name of petitioner No.1 was mutated in the revenue records and that, therefore, they are deemed to be the lawful owners of the property and "persons interested" under the provisions of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'). He submitted that the action of the respondents in seeking to interfere with the property of the petitioners without acquiring the land is in violation of the provisions of the 1894 Act.

In the counter-affidavit, a specific plea is taken that the property in dispute is an assigned land. Under the provisions of the 1977 Act, sale of an assigned land is prohibited and, as such a sale is never deemed to have taken place. The only exception carved out to this prohibition is envisaged under Section 3(5) of the said Act, wherein if the purchaser proves to the satisfaction of the authorities that the property was purchased bona fide and for valuable consideration

before the commencement of the Act, such a transaction will be exempted from the provisions of the said Act.

The learned Assistant Government Pleader stated that since the land belongs to the government and is an assigned land, as a matter of policy, the government has not been notifying the properties for acquisition and that if the assignee makes a claim for ex gratia/compensation, his case will be considered.

In the light of the respective submissions, I deem it appropriate to dispose of the writ petition with the following terms:

1) The petitioners are permitted to make representation to respondent No.1 for payment of compensation.

2) Resondent No.1 shall, on such representation being made by the petitioners, consider whether they have acquired the property in accordance with law and not in violation of the provisions of Act No. 9 of 1977 and if he is satisfied that the petitioners are the lawful owners of the property, he shall fix the quantum of compensation permissible in law for the same.

3) Respondent No.1 shall complete this exercise within a period of eight weeks from the date of receipt of representation from the petitioners.

Ordered accordingly.

As a sequel to disposal of the writ petition, W.P.M.P.No. 34012 of 2007 filed by the petitioners for interim relief is disposed of as infructuous.

**C.V.NAGARJUNA REDDY, J**

24.12.2007

ksld